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August 30, 2011

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington D.C. 20554

Re: ***Notice of Oral Ex Parte Communication***  
In the Matter of *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42

Dear Ms. Dortch:

On August 30, 2011, Jing Liu and Brian Thomas, respectively Regulatory Analyst and Telecommunications Policy Advisor for the Washington Utilities and Transportation Commission ("WUTC"), had a brief telephone conversation with Jonathan Lechter, Attorney Advisor for the Wireline Competition Bureau concerning the above-referenced proceeding. The discussion concerned the attached document, produced by Ms. Liu, which is a working draft on the interplay between the Washington Telephone Assistance Program (a state plan that provides additional assistance to certain low income telecommunications consumers) and wireless Eligible Telecommunications Carriers' Lifeline programs.

A copy of this letter is being filed via ECFS with your office. If you have any questions or require any additional information, please contact me at (360) 664-1193 or [sbrown@utc.wa.gov](mailto:sbrown@utc.wa.gov).

Sincerely,

SALLY BROWN

Senior Assistant Attorney General

cc: David Danner  
Brian Thomas  
Mark Vasconi  
William Weinman

## I. Washington Telephone Assistance Program

### History and Status

By rule, all ILECs, all of which are ETCs designated by the UTC, must offer Lifeline and Link Up discounts to qualifying customers. They are reimbursed by both the federal and state Lifeline and Link Up programs. All ILECs follow WTAP eligibility and customer verification requirements.

WTAP is funded by an excise tax applied to switched access lines (wireline), currently \$0.14 per access line. In fiscal year 2009, WTAP provided benefits to approximately 124,100 households (about 17% of the total eligible households). WTAP disburses about \$3.8 million benefits to Washington consumers. The administrative cost for WTAP is approximately \$500,000 a year.<sup>1</sup>

RCW 80.36.410-470 and WAC 388-273 specifies the requirements and procedures for WTAP.

### Customer Benefits

The eligible customer receives the following WTAP benefits for their telephone services:

- (1) a reimbursement of one-half of the connection fee up to a maximum of \$22;
- (2) a discount on the recurring monthly flat rate that reduces the rate down to the WTAP assistance rate of \$8.00 (set by the UTC);
- (3) a waiver of any local deposit required by the carrier up to two times the WTAP assistance rate;
- (4) Community Service Voice Mail (CSVM)

The benefit of WTAP's monthly discount is illustrated in details below:

#### Explanation of Qwest Lifeline Credits

Regular Residential Rate	13.50	}	Regular Residential Rate Total: \$19.34
Subscriber Line Charge (SLC)	5.77		
Federal Tier One Support	-5.77	}	Federal Credits Total: \$8.84
Federal Tier Two Support	-1.75		
Federal Tier Three Support	-1.25		
Washington State Support	-2.50	—	WTAP Total: \$2.50
Lifeline Rate	8.00		
(plus taxes and surcharge)			

<sup>1</sup> DSHS Report to the Legislature on Washington Telephone Assistance Program (December 2008). Available at <http://www.dshs.wa.gov/legreports/PA.shtml>

## Customer Eligibility Criteria

A household must participate in one of the following public assistance programs in order to be eligible for WTAP. The DSHS administers all of these public assistance programs except CSVN.<sup>2</sup>

- Temporary assistance for needy families (TANF);
- State family assistance (SFA);
- General assistance;
- Refugee assistance;
- Food assistance;
- State Supplemental Security Income (SSI);
- Medical assistance, including medicare cost sharing programs;
- Community options program entry system (COPES);
- Chore services; or
- Have completed using CSVN services, and been identified to the department as eligible for WTAP by the community agency that provided your CSVN program;

## Application and Reimbursement Process

1. A customer contacts the local telephone company;
2. The telephone company contacts DSHS to verify the eligibility for WTAP support via a three-way call.
3. Once a customer's eligibility is verified, the telephone company adds Lifeline discount (both federal and WTAP) to the customer's telephone bill.
4. The telephone company gets federal Lifeline support from the federal Low-Income Program administrator and state support from the DSHS.

## Mechanism to Ensure Accountability

- WTAP checks the DSHS database of public assistance benefit recipients to establish the customer's initial eligibility;
- WTAP performs monthly and annual audits to ensure local telephone companies only get benefits for eligible customers.

WTAP benefits are limited to one residential line per household. Most customers obtain their telephone service with Lifeline discount from ILECs whose service territories do not overlap other ILECs.<sup>3</sup> The wireline telephone service plans include unlimited local calling. Customers do not have any incentive to subscribe to more than one wireline account. Therefore, the problem of duplicative Lifeline WTAP payments between ILECs is almost non-existent.

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<sup>2</sup> Community voice mail boxes are administered by a community agency that has been contracted with the department of community, trade and economic development. Currently there are 12 Community Voice Mail agencies in Washington: <http://www.cvm.org/sites.cfm#WA>.

<sup>3</sup> A small number of customers get telephone service with Lifeline discount from competitive wireline telephone service providers.

WTAP does not provide state Lifeline benefits to wireless ETCs or wireless customers. It does not verify wireless Lifeline customers' eligibility. Nor does it check whether a customer is receiving Lifeline benefits from more than one carrier.

## **DSHS and Prepaid Wireless ETCs**

DSHS is providing prepaid wireless ETCs with access to their online Beneficiary Verification System (BVS). The BVS is an interactive online interface. When an authorized user keys in a Lifeline applicant's 9-digit DSHS client ID or the combination of the applicant's full name and social security number, the website will confirm if the customer is receiving one of the nine qualifying public assistance programs administered by the DSHS.

DSHS has agreed to compare prepaid wireless ETCs' customers with their internal database on an annual basis. By March 31 of each year, prepaid wireless ETCs will provide their Lifeline customer record as of December 31 of the prior year to the UTC and the DSHS. The DSHS will compare the record against their database of eligible households. The results of the database comparison will confirm whether the company's Lifeline customer records match DSHS's customer database (e.g., matching name and DSHS Client ID). If the data match, it will also confirm whether a customer is receiving a qualifying public assistance benefit and whether the customer is also receiving WTAP benefits from a wireline phone service plan at the same time.

## **II. Wireless ETCs and State Authority**

### **History and Status**

After the passage of the Telecommunications Act of 1996, the Federal Communications Commission and states have designated a number of wireless telephone service providers as competitive ETCs. In Washington, the UTC has the authority to designate ETCs. The following wireless carriers have been granted ETC status during the period beginning in 1997 through 2010 for the purpose of receiving both federal High Cost Support and Low Income Support (Lifeline and Link Up).

- AT&T Mobility (f/k/a Cingular Wireless, LLC and AT&T Wireless)
- Eastern Sub-RSA Limited Partnership d/b/a Inland Cellular
- RCC Minnesota, Inc.
- Sprint Spectrum, LP
- United States Cellular Corporation
- Washington RSA No. 8 Limited Partnership d/b/a Inland Cellular
- T-Mobile West Corporation

Historically, those ETCs have experienced low Lifeline subscription rates due to carriers' lack of incentives to flow through the low-income credits. Based on informal information, all above carriers combined have close to 16,000 wireless Lifeline customers in Washington in 2010.

Since 2009, UTC has received over ten ETC petitions for federal Low Income Support only. They do not seek High Cost Support or WTAP support. All such petitioning companies offer

prepaid wireless telephone service with a fixed amount of minutes each month free of charge to qualifying customers. Customers have the option to purchase additional minutes or advanced functions. The UTC has designated three wireless ETCs with prepaid plans:

- TracFone Wireless, LLC.
- Virgin Mobile, USA
- YourTel America, Inc.

Wireless ETCs follow federal eligibility criteria and customer verification procedures.<sup>4</sup> They report to and get imbursement from the federal program administrator, the USAC.

47 C.F.R. 54.400 – 417 provides specific procedures and requirements for the federal Lifeline and Link Up support.

The federal program is funded by a USF surcharge on all interstate telecommunications service revenue. Most telecommunications companies pass the surcharge to end-user bills. The universal service contribution factor is set at 14.4% for the third quarter of 2011. In 2009, the federal Low-Income Program disbursed over \$1 billion benefits to ETCs.<sup>5</sup> Washington state receives approximately \$17.5 million.

## Customer Benefits

The federal Lifeline support consists of rate reduction in four tiers:

- Tier One: the customer gets a credit equal to the FCC subscriber line charge (SLC), currently up to \$6.50;
- Tier Two: the customer receives a credit of \$1.75 if the receiving carrier certifies that it will pass through the full benefits to qualifying customers;
- Tier Three: the customer receives a credit of one-half of any state or carrier funded Lifeline credit, up to \$1.75;
- Tier Four: the customer receives a credit up to \$25 for eligible residents of tribal lands to the extent that tribal customers pay no less than \$1 per month.<sup>6</sup>

In short, federal Lifeline support provides up to \$10 per customer per month. A qualifying tribal resident may get additional \$25 per month.

The federal Link Up support provides a reduction in the carrier's customary charge for commencing telecommunications service for a single connection at a customer's principal place of residence. The reduction is half of the non-recurring customary connection charge, up to \$30.00. Tribal customers may receive an additional Link Up support up to \$70.00.

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<sup>4</sup> The FCC declared that when a state commission mandates Lifeline support, but does not impose certification and verification requirements on certain carriers within the state, the affected carriers must follow federal default criteria for certification and verification purpose. See *In the Matter of Lifeline and Link-Up, Petitions for Declaratory Ruling and Requests for Waiver by US Cellular Corporation, et al.*, Order and Declaratory Ruling, WC Docket No. 03-109. FCC 10-25 (rel. February 2, 2010).

<sup>5</sup> *Federal and State Staff for the Federal-State Joint Board on Universal Service in CC Docket No. 96-45*, Universal Service Monitoring Report (2010). CC Docket No. 98-202.

<sup>6</sup> The Lifeline support cannot reduce tribal Lifeline customers' monthly payment less than \$1 each month.

## Customer Eligibility Criteria

In a state that mandates state Lifeline support, carriers and customers follow the state rules pertaining to consumer qualification for Lifeline (i.e., all wireline ETCs follow WTAP requirements). In a state that does not mandate state Lifeline support, or in a state where the state mandate does not apply to certain categories of carriers, carriers and customers follow the federal certification and verification requirements (i.e., wireless ETCs in Washington follow federal requirements, unless otherwise directed by the UTC). Under the federal rule, a customer's income must be at or below 135% of the Federal Poverty Guidelines or a consumer must participate in one of the following federal assistance programs:

- Medicaid;
- Food Stamps;
- Supplemental Security Income;
- Federal Public Housing Assistance (Section 8);
- Low-Income Home Energy Assistance Program;
- National School Lunch Program's free lunch program; or
- Temporary Assistance for Needy Families.

The list overlaps with the WTAP-eligible program list to some extent. However, since the DSHS does not administer Federal Public Housing Assistance, Low-Income Home Energy Assistance Program and National School Lunch Program, those three programs are not qualifying programs for WTAP reimbursement.

## Application and Reimbursement Process

1. A customer contacts a wireless ETC and signs a self-certification form;
2. The wireless ETC gives the customer appropriate Lifeline credits;
3. The wireless ETC files Form 497 with the USAC either monthly or quarterly to claim Lifeline support.

## Mechanism to Ensure Accountability

Under the federal default standards and certification requirements, there are very few safeguards in customer verification. The process largely depends on customers' self-certification to ETCs and ETCs' self-certification to the FCC and the USAC.

- ETCs must obtain customers' signature on a document certifying under penalty of perjury that the consumer receives benefits from one of the qualifying programs and identifying the program(s), or the consumer's household meets the income threshold; and the consumer will notify the carrier if that consumer ceases to meet the eligibility criteria.
- Consumers qualifying under an income-based criterion must present documentation of their household income prior to enrollment in Lifeline.<sup>7</sup> An officer of the ETC must

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<sup>7</sup> 47 C.F.R. § 54.410 (b) specifies types of valid income proof documentation.

certify annually that the ETC has procedures in place to review income documentation and that the carrier was presented with documentation of the customer's household income.

- Consumers qualifying based on participation in a public assistance program do not need to present any proof documents.
- Annually, ETCs must verify the continued eligibility of a statically valid random sample of their Lifeline consumers and report the survey results to the FCC and the USAC. ETCs may verify Lifeline customers' eligibility directly with a state. Or they may survey the customers directly to request collaborating proof documentation and a new self-certification. However, because the sample size is capped at 244, this survey has large margin of error for ETCs with a large number of Lifeline customers. In addition, there is no follow-up resolution even if fraud is detected. Survey results are not shared with the state commissions or the public.
- USAC conducts audits on selected ETCs. Earlier audits only check whether ETCs properly completed and retained documents. In recent In-depth Data Validations processes, USAC selects several largest Lifeline recipients in selected states and checks duplicative claims across carriers for the same households. USAC audit results are not available to the state commissions or the public.
- Historically, a customer only needs to present a signed self-certification form upon enrollment. No new certification is required as long as the customer retains the Lifeline service unless the customer is selected through random sample during the annual survey. When the FCC designated a number of prepaid wireless resellers as ETCs (e.g., TracFone, Virgin Mobile), it requires those carriers to obtain customers' self-certification annually.

Considering the lack of safeguards in the federal process, UTC imposes two conditions on prepaid wireless ETCs. They must use WTAP's eligible program list, instead of the federal program criteria. They must work with the DSHS and use their online BVS to verify a customer's eligibility when the customer is requesting the carrier's service. UTC also requires prepaid wireless ETCs to submit their entire customer record of the prior calendar year to DSHS by March 31 of each year. DSHS will verify whether a customer continues to be eligible for Lifeline service and whether the customer is also getting WTAP service from an ILEC concurrently with the wireless Lifeline service. DSHS verified TracFone's December 31, 2010 customer record in April, 2011. The result indicates that many of TracFone's customers are also receiving WTAP benefits at the same time, which is contrary to the FCC's "one per household" rule requirement.

The following table illustrates the different regulatory treatments of ETCs currently operating in Washington.

<b>Lifeline Support Providers and Requirements</b>			
	<b>Wireline ETCs</b>	<b>Wireless ETCs who Receives both High- Cost Support and Low-Income Support</b>	<b>Prepaid ETCs who Receives Low-Income Support Only</b>
<b>Funding Source</b>	Federal USF and WTAP	Federal USF	Federal USF
<b>Lifeline Administrators</b>	WTAP and USAC	USAC	USAC
<b>Discount Offers</b>	Carriers flow through the federal and state Lifeline credits to customers (customers pay \$8 plus surcharges and taxes).	Carriers flow through the federal Lifeline credits to customers (up to \$8.25 discount)	Carriers claim federal credits (up to \$10) and offer a fixed amount of free minutes for prepaid wireless services.
<b>Customer Eligibility Criteria</b>	WTAP criteria: based on participation in qualifying public assistance programs administered by the WA DSHS.	Federal criteria: (1) participation in seven public assistance programs or (2) household income at or below 135% of federal poverty guideline.	(1) WTAP program criteria and (2) federal household income threshold.
<b>Verification of Customers' Initial Eligibility</b>	Verified via DSHS database	Customer-self-certification	Customer self-certification; carriers are instructed to access the DSHS online database to verify customer eligibility.
<b>Verification of Customers' Continued Eligibility</b>	Verified by WTAP monthly and annually	Limited: annual survey on a small sample of customers	Limited: annual survey on a small sample of customers; annual re-certification from existing customers.
<b>Check for Inactive Customers</b>	Carriers have information about active customers based on deactivation notice or bill payment.	Carriers have information about active customers based on deactivation notice or bill payment.	Limited: deactivation upon 60 days of non-usage.
<b>Mechanism to Check Duplicative Support for a Single Customer</b>	Duplicate check within wireline Lifeline customer database.	None	Limited: annual audit by the DSHS to check duplicate between WTAP and the ETC's beneficiaries.